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10/612,305	07/03/2003	Hirobumi Toyoda	3022-0012	3187

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EXAMINER	
PEZZUTO, ROBERT ERIC	
ART UNIT	**PAPER NUMBER**
3714	

NOTIFICATION DATE	DELIVERY MODE
06/26/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/612,305	TOYODA, HIROBUMI	
	Examiner	Art Unit	
	Alan Cross	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 December 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *03 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☒ Certified copies of the priority documents have been received in Application No. 10/612,305.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *12/1/03, 4/12/05, 5/25/2006*
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 9 is rejected under 35 U.S.C. 101 because the claimed invention as a whole must produce a "useful, concrete and tangible" result to have a practical application. There is no physical medium that is used to store the program so there is not tangible result. The claim must contain a physical computer readable medium.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4,9 are rejected under 35 U.S.C. 102(b) as being anticipated by Tiberio (US Patent #5123649).

Regarding claim 1,9: Tiberio discloses a gaming machine with which a combination-making game is performed, the combination-making game comprising a plurality of winning combinations (col.1 lines 50-56), wherein a disbursement number is determined for each winning combination the gaming machine being characterized in paying out as many game media as obtained by multiplying a corresponding disburse

number and a bet number a player bet when the corresponding winning combination is formed, (col. 1, 56-65), the gaming machine comprising: an operating means for allowing the player to conduct an operation to increase the bet number; a detecting means for detecting the operation through said operating means (col. 2, 15-22); a disbursement number change means for changing each disbursement number so that an amount order of disbursements by the gaming machine is changed as said detecting means detects the operation; and a determining means for determining each disbursement number for a respective winning combination (col. 2, 1-10). Tiberio discloses a program for performing a combination-making game (col. 3, 30-40)

Regarding claim 2: Tiberio discloses the gaming machine according to claim 1, wherein said operating means becomes operative when the player loads game media, or for a predetermined number of times or for a predetermined period of time during the combination-making game that is carried out in the gaming machine (col. 2, 12-15). It is well known that game machines take credits, or game media and then allows a user to then play until the value wagered with the currency is used up.

Regarding claim 3: Tiberio discloses the gaming machine according to claim 1, wherein said determining means determines whether increasing, decreasing, or maintaining said each disbursement number for the respective winning combination (col.2, 1-10).

Regarding claim 4: Tiberio discloses the gaming machine according to claim 2, wherein said determining means determines whether increasing, decreasing, or

maintaining said each disbursement number for the respective winning combination (col. 2, 1-10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tiberio in view of Adams (US Patent #5848932).

Regarding claim 5: Tiberio teaches a gaming machine with which a combination-making game is performed, the combination-making game comprising collecting a predetermined number of dealt elements so as to make at least one of wining combinations with respectively different ranks; and determining win/loss of the combination-making game based on a corresponding rank (col.1, 50-65), the gaming

machine comprising: a bet operating means for allowing a player to conduct an operation to bet game media (col. 4, 31-50); It is well known in the art to let a player quit the game and cash out ,a drop operating means for allowing the player to drop the combination-making game; it is inherent quality of a game machine to have an operation detecting means for detecting that said bet operating means or said drop operating means is operated; and a disbursement number determining means for collecting game media bet by a dropped player and determining a disbursement number obtained from a bet number of game media a winning player bet and the multiplication factor of disbursement (col. 2, 1-10),(col. 3, 5-17). Tiberio lacks a disbursement multiplication factor changing means for determining a multiplication factor of disbursement by a lottery independently from the respective rank having previously been allocated to each wining combination as said operation detecting means detects. Adams teaches a disbursement multiplication factor changing means for determining a multiplication factor of disbursement by a lottery independently from the respective rank having previously been allocated to each wining combination as said operation detecting means detects (col. 2 10-21, abstract). It would have been obvious to one of ordinary skill in the art to modify the invention of Tiberio with the teaching of Adams so that on predetermined indicia a lottery type multiplier would be used on the disbursement number there by bonusing a player with a certain number. This would give a player a heightened feeling of excitement by knowing that they could possibly multiply there winnings by a certain number.

Claims 6,7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiberio and Adams in view of Molnick (US Patent #5800268).

Regarding claim 6: The combination of Tiberio and Adams teaches the gaming machine according to claim 5, except wherein the combination making game is played by a plurality of players including a dealer set by the gaming machine. Molnick teaches wherein the combination making game is played by a plurality of players including a dealer set by the gaming machine (col. 1, 62-67). It would have been obvious to one of ordinary skill in the art to modify Tiberio to have the multiplayer system of Molnick where you could see the dealer and the other players hands. This would make a user feel that a remote gaming machine is almost the real thing.

Regarding claim 7: The combination of Tiberio and Adams teaches the gaming machine according to claim 5, wherein said gaming machine comprises: a game terminal being composed of said bet operating means, said drop operating means, and said operation detecting means (col. 1, 50-65); except a server being composed of said disbursement multiplication factor changing means and said disbursement number determining means; and a communications means including a communications line for connecting said server to said game terminal. Molnick teaches a server being composed of said disbursement multiplication factor changing means and said disbursement number determining means (col. 2, 60-67); and a communications means including a communications line for connecting said server to said game terminal (col. 1, 52-58). It would have been obvious to one of ordinary skill in the art to modify the combination of Tiberio and Adams to include a server and a communication line that a

user could use to connect to the server to play the game. It would be well known that the disbursement multiplication would be done in the server because the game was run in the server the disbursement would be a part of the game in the server.

Claim 8 rejected under 35 U.S.C. 103(a) as being unpatentable over Tiberio in view of Molnick. Tiberio teaches the combination-making game comprising a plurality of winning combinations, wherein a disbursement number is determined for each winning combination (col. 1,50-56), the gaming machine being characterized in paying out as many game media as obtained by multiplying a corresponding disburse number and a bet number a player bet when a corresponding winning combination is formed (col. 1, 56-65), the game comprising: an operation detecting means for detecting that the player operates to increase said bet number (col. 2, 15-22); a disbursement multiplication factor changing means for changing each disbursement number so that an amount order of disbursements by the gaming machine is changed as said operation detecting means detects an operation; and a disbursement number determining means for determining each disbursement number for each winning combination (col. 2, 1-10),(col. 3, 5-17). Except a server for controlling a gaming machine with which a combination-making game is performed. Molnick teaches a server for controlling a gaming machine with which a combination-making game is performed (co. 2, 60-67). It would have been obvious to one of ordinary skill in the art to operate the invention of Tiberio on a server using the teachings of Molnick. This would allow a larger group of

users in different locations to play the game and would centralize the disbursement means. Giving the casino or management of the game more control.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

SoRelle et al. (US Patent #5779547) discloses a pari-mutuel gaming system with a dynamic pay table, which is changeable for each player.

Acres (US Patent #6231445) discloses a method of awarding variable bonus awards over a gaming network.

Manz (US Patent #5494287) discloses a dynamic payout system.

Hettinger (US Patent #6712693) discloses a game with a pay schedule generated where a frequency or occurrences of game elements changes the payout.

Rubeli (US Pub #2002/0128058) discloses a game machine where different wager values can be selected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Cross whose telephone number is 571-272-5529. The examiner can normally be reached on 8-4 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ARC 571-272-5529

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TC3700